

Company Number 10137811

The Companies Act 2006

Private Company Limited by Shares

Articles of Association

of

CRI International Ltd

(adopted by special resolution on 29 July 2016)

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Contents

Article	Page
1 Definitions and interpretation	1
2 Shares and distributions	7
3 Further issues of shares authority	8
4 Further issues of shares pre-emption rights	9
5 Partly paid Shares	10
6 Payment of commissions on subscription for Shares	10
7 Purchase of own shares	10
8 Calls on Shares and forfeiture	10
9 Transfer of Shares - general	13
10 Share transfers to secured parties	15
11 Permitted transfers	15
12 Voluntary transfers	18
13 Compulsory transfers	22
14 Drag along right	23
15 Obligations on completion of share transfers	23
16 Members' power to require directors to take action	24
17 Directors to take decisions collectively	24
18 Unanimous decisions	24
19 Committees	24
20 Calling a directors' meeting	25
21 Number of directors	25
22 Appointment of a Chairperson	25
23 Quorum for Board meetings	25
24 Casting vote	26
25 Transactions or other arrangements with the company	26
26 Conflicts of interest requiring Board authorisation	27
27 Directors may vote when interested	29
28 Records of decisions to be kept	29
29 Appointment of directors	29
30 Termination of director's appointment	29
31 Appointment and removal of alternate directors	30
32 Rights and responsibilities of alternate directors	30
33 Termination of alternate directorship	31
34 Secretary	31

35	Directors' expenses	31
36	Quorum at general meetings	31
37	Poll votes	32
38	Proxies	32
39	Means of communication to be used	32
40	Indemnity	33
41	Insurance	33
42	Members' collective action	33

The Companies Act 2006
Private Company Limited by Shares
Articles of Association
of
CRI International Ltd (the **Company**)
(adopted by special resolution on 29 July 2016)

1 Definitions and interpretation

1.1 In these Articles of Association (the **Articles**)

Accountants mean the accountants for the time being of the Company

Act means the Companies Act 2006 and any statutory modification or re-enactment of such act for the time being in force

Affiliate in relation to a person means any other person (i) over which that person has Control, or (ii) which Controls that person (directly or indirectly), and **Affiliated** shall be construed accordingly

Appointor has the meaning given in article 31.1

Asset Sale means the sale of all or substantially all of the business undertaking and assets of the Company

Associated means, in the context of companies, one being a subsidiary of the other or both being subsidiaries of the same body corporate

Board means the board of directors of the Company or the directors present at a duly convened meeting of the board or a committee of the board

Business Day means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks are open for business in the City of London

Call has the meaning given in article 8.1

Call Notice has the meaning given in article 8.1

Change of Control means the acquisition (whether by purchase, transfer, renunciation or otherwise but excluding a transfer of Shares made in accordance with article 11 (Permitted Transfers)) by any person, other than persons who are holders of Shares at the date of adoption of these Articles, of any interest in any Shares if, upon completion of

that acquisition, that person (**Third Party Purchaser**), together with persons acting in concert or connected with him, would hold or beneficially own more than 50% of the Shares

Company Group Member means any subsidiary and/or subsidiary undertaking of the Company, and any company that is Controlled, directly or indirectly, by either the Company or any subsidiary and/or subsidiary undertaking of the Company

Conflict has the meaning given in article 26 1

Connected With has the meaning given in sections 1122 and 1123 Corporation Tax Act 2010 save that there shall be deemed to be control for that purpose whenever either sections 450 and 451 or section 1124 of that act would so require

Control means

- (a) in relation to a company, corporation or limited liability company, the ability of a person to ensure that the activities and business of that company, corporation or limited liability company are substantially conducted in accordance with the wishes of that person, or
- (b) the beneficial ownership, directly or indirectly, of
 - (i) the case of a company, corporation or a limited liability company, shares or securities of that company, corporation or limited liability company
 - (A) to which are attached the right to elect a majority of the directors of the company, corporation or limited liability company, or
 - (B) which entitle the holder to more than fifty per cent of (1) the votes which may be cast on a poll at general meetings, or (2) the income on a distribution, or (3) the assets on a winding up, of that company, corporation or limited liability company, or
 - (ii) in the case of a partnership (other than a limited partnership), limited liability partnership, unincorporated joint venture or any other unincorporated association or organisation, ownership interests therein representing more than fifty per cent of the voting interest of that entity or person by contract or otherwise, or
 - (iii) in the case of a limited partnership, (a) if the general partner or manager of the limited partnership is a company or corporation, sufficient securities of that company or corporation to control that company or corporation in accordance with paragraph (i) of this definition, or (b) if the general partner or manager of the limited

partnership is an entity other than a company or corporation, sufficient ownership interests of that entity to control that entity in accordance with paragraph (ii) of this definition, or

- (iv) in the case of a trust, estate, body or any other person (other than a natural person) not falling within (i), (ii) or (iii) above, more than fifty per cent of the beneficial interest therein,

and **Controlled** and **Controlling** shall be construed accordingly

Deed of Adherence means a deed of adherence to the Joint Venture Agreement substantially in the form set out in schedule 1 (Form of Deed of Adherence) to the Joint Venture Agreement

Disposal in relation to a Share, includes

- (a) sale, assignment or transfer,
- (b) creating or permitting to subsist any pledge, charge, mortgage, lien or other security interest or encumbrance (other than Permitted Security),
- (c) creating any trust or conferring any interest,
- (d) any agreement, arrangement or understanding in respect of votes or the right to receive dividends,
- (e) the renunciation or assignment of any right to subscribe or receive a Share or any legal or beneficial interest in a Share;
- (f) any agreement to do any of the above, except an agreement to transfer Shares which is conditional on compliance with the terms of these Articles, and
- (g) the transmission of a Share by operation of law

DR means David Robertson

DR Share Charge means the share charging agreement in agreed form dated on or around the date of these Articles of Association and made between Forepower and DR.

DR Shareholder means the holder or holders of the DR Shares from time to time

DR Shares means the Shares held by DR and/or any Permitted Transferee pursuant to article 11.5

Eligible Director means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter)

Exit Event means any of the following

- (a) a Disposal of all Shares, or
- (b) a Listing, or
- (c) an Asset Sale.

Forepower means Forepower Ltd a company incorporated in England under registered number 10292497 whose registered office is at Tickton Hall, Tickton, Beverley, North Humberside, United Kingdom, HU17 9RX

Forepower Shareholder means the holder or the holders of the Forepower Shares from time to time

Forepower Shares means the Shares held by Forepower and/or any transferees pursuant to article 11.5

Group means, in respect of any person, all of its holding companies, subsidiaries, subsidiary undertakings, all other subsidiaries and subsidiary undertakings of any such holding company and all of its Affiliates from time to time

Group Transferee means a body corporate to whom Shares have been transferred under article 11

Issue Price means the amount paid up or credited as paid up (including any premium on issue) on a Share or, in the case of a Member who has acquired a Share via an arm's length transfer in accordance with these Articles, the amount paid by such Member for such Share

Joint Venture Agreement means the joint venture agreement entered into on or around the date of these Articles of Association (as amended, novated and supplemented from time to time) made between the (1) Company, (2) DR, (3) MN and (4) Forepower

Listing means the admission of all or any part of the equity share capital of the Company or any subsidiary of the Company, to trading on the London Stock Exchange's market for listed securities, the AIM market of the London Stock Exchange, or on any other recognised investment exchange (as defined in the Financial Services and Markets Act 2000)

Member means any registered holder of Shares for the time being.

MN means Malcolm Niven

MN Share Charge means the share charging agreement in agreed form dated on or around the date of these Articles of Association and made between Forepower and MN

MN Shareholder means the holder or the holders of the MN Shares from time to time

MN Shares means the Shares held by MN and/or any Permitted Transferee pursuant to article 11.5

Model Articles mean the model Articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles

Ordinary Shares mean the ordinary shares of £1 00 each in the capital of the Company

Original Holder in relation to any Group Transferee, means the Shareholder who made the transfer of the relevant Shares to the Group Transferee or, in the case of a series of transfers between Group Transferees, the Shareholder who made the initial transfer of the relevant Shares to a Group Transferee, and the relevant Shares means the Shares held by the Group Transferee or any Shares from which those Shares are derived or by virtue of which those Shares were acquired

Permitted Transferee shall have the meaning given to it in article 11 5

Permitted Transfer Group in relation to anybody corporate, means any wholly-owned subsidiary of that body corporate at the relevant time and any other body corporate of which that body corporate is a wholly-owned subsidiary, and a body corporate is a wholly-owned subsidiary of another body corporate if no person has any interest (including any security interest) in its shares except that other and that other's wholly-owned subsidiaries or persons acting on behalf of that other or its wholly-owned subsidiaries

Relevant Loss means any loss or liability which has been or may be incurred by a Relevant Officer in connection with that Relevant Officer's duties or powers in relation to the Company, any Associated company or any pension fund or employees' share scheme of the Company or Associated company

Relevant Officer means any director or other officer or former director or other officer of the Company or an Associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act

Senior Loan Facility Agreement means the senior loan facility agreement in agreed form dated on or around the date of these Articles and made between (1) Clearteq Energy Limited (company number 9692367), (2) CRI Group Limited (company number 9647794) and (3) the Company, (4) Dieselgen Limited (company number 10046931), (5) Gasgen Limited (company number 10037001) and (6) Foremans Properties Limited (company number 3749308), as amended from time to time

Shareholders means DR, MN and Forepower, and any other person to whom the benefit of the Joint Venture Agreement is extended pursuant to clause 22 of the Joint Venture Agreement (Effect of deed of adherence)

Shares means shares in the capital of the Company

Valuers means the Accountants unless

- (a) a report on Fair Value (as such term is defined in article 12 4 2) is to be made pursuant to a Deemed Transfer Notice and, within 10 Business Days after

the date of the Deemed Transfer Notice, the Vendor notifies the Board in writing that it objects to the Accountants making that report, or

(b) the Accountants decline an instruction to report on Fair Value,

when the Valuers for the purpose of that report shall be a firm of chartered accountants agreed between the Vendor and the Board or, in default of agreement within 10 Business Days after the event referred to in (a) or (b) above, appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of the Vendor or the Board (each Member agrees that if any Member, being required to sign the letter of engagement of the Valuers, fails to do so within five Business Days of being requested to sign it, the Company may authorise any person to act as that Member's attorney in signing such engagement letter)

1 2 In addition to the terms defined in article 1 1 certain other terms are defined elsewhere in these Articles (denoted by bold type) Each such term shall have the meaning stated for the purpose of the provision in which it is defined and where used elsewhere in these Articles

1 3 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles In the event of a conflict between the Model Articles and a provision of these Articles, these Articles shall prevail

1 4 In the event of a conflict between these Articles and the provision of any Joint Venture Agreement, the provisions of any Joint Venture Agreement shall prevail

1 5 Save as otherwise provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles Words and expressions defined elsewhere in these Articles shall bear the meanings given to them there

1 6 A reference in these Articles to a regulation is a reference to the relevant article of the Model Articles and a reference to an article by number is to the particular article of these Articles

1 7 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of.

1 7 1 any subordinate legislation from time to time made under it, and

1 7 2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts

- 1 8 In these Articles, words importing a gender include every gender, references to the singular include the plural and references to persons include bodies corporate, unincorporated associations and partnerships
- 1 9 The headings in these Articles shall not affect their construction
- 1 10 If any date referred to in these Articles is not a Business Day, it shall be taken to be a reference to the next Business Day after that date
- 1 11 Where a notice period is expressed to be in clear days, such notice period shall not be taken to include either the date on which the notice is given or the date on which the notice is expressed to expire.
- 1 12 The Company's name is 'CRI International Ltd'
- 1 13 The liability of the Members is limited to the amount, if any, unpaid on the Shares held by them
- 2 **Shares and distributions**
- 2 1 Payment of any distribution by the Company (including by way of dividend) to any Member shall, at all times, be subject to the right of the Company to set off any such distribution owed to the Member against any amount owed (or required to be paid) by such Member to the Company in accordance with the provisions of any Joint Venture Agreement
- 2 2 Except as otherwise provided in these Articles, the Ordinary Shares shall rank *pari passu* in all respects
- Dividends
- 2 3 Any profits which the Company determines to distribute in respect of any financial year shall be distributed to the holders of the Ordinary Shares, subject to the terms of the Senior Loan Facility Agreement
- Voting rights
- 2 4 Each Ordinary Share will entitle its holder to receive notice of, attend and vote at any general meeting of the Company and to receive copies of and to agree to any proposed written resolution
- Liquidation and return of capital
- 2 5 On a return of assets on a liquidation, reduction of capital or otherwise the Members shall be entitled, in respect of their Shares, to the following (to be paid out of the surplus assets of the Company after payment of its liabilities) (subject, at all times, to the provisions of any Joint Venture Agreement)
- 2 5 1 first, in paying to the Members a sum equal to any unpaid dividends due to them under these Articles,

2 5 2 second, in paying to the holders of the Ordinary Shares an amount equal to the amount paid up on the Ordinary Shares on a *pro rata* basis (based on each holder's respective holding of Ordinary Shares), and

2 5 3 thereafter in paying to the holders of the Ordinary Shares any balance of such surplus assets on a *pro rata* basis (based on each holder's respective holding of Ordinary Shares)

Exit event

2 6 In the event of an Exit Event, the total of all and any form of consideration received, or receivable, by the sellers or the Company (as applicable) that are the subject of the Exit Event shall be reallocated or allocated (as relevant) between the sellers of such Shares (in respect of a Disposal) or the Company (in respect of a Listing or an Asset Sale) so as to ensure the following order of application of the aggregate sale proceeds (subject, at all times, to the provisions of any Joint Venture Agreement)

2 6 1 first, in paying to the Members a sum equal to any unpaid dividends due to them under these Articles, and

2 6 2 thereafter, in paying to the holders of Ordinary Shares any balance of such surplus sale proceeds on a *pro rata* basis (based on each holder's respective aggregate holding of Ordinary Shares)

General

2 7 On the transfer of any Share as permitted by these Articles,

2 7 1 a Share transferred to a non-Member shall remain of the same class as before the transfer, and

2 7 2 a Share transferred to a Member shall automatically be re-designated on the transfer as a Share of the same class as those Shares already held by the Member

2 8 If no Shares of a class remain in issue following a re-designation under this article 2 8, these Articles shall be read as if they do not include any reference to that class or to any consents from, or attendance at any meeting or votes to be cast by, Members of that class

2 9 Any transferee, allottee or transmittee of any Shares must enter into a Deed of Adherence

3 Further issues of shares: authority

Save to the extent authorised from time to time by an ordinary resolution of the Members, and approval of DR, MN and Forepower the directors shall not exercise any power to allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares in the Company

4 **Further issues of shares: pre-emption rights**

4.1 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company

4.2 Where the Members have expressly agreed that Shares are to be offered to Members on a pre-emptive basis, subject to article 4.3 and the provisions of any Joint Venture Agreement, all such Shares shall first be offered for subscription to the holders of Shares of the same class in proportion (as nearly as the directors of the Company determine is practicable) to the Shares of the relevant class held by the relevant Member at that time and on the same terms. Such offer shall be made by notice in writing from the Company specifying the maximum number of Shares to which the relevant Member is entitled, the number of Shares available for subscription and a time (being not less than seven days) within which the offer (if not accepted) will be deemed to have been declined. The offer may be accepted in whole or in part. If any Member does not accept the offer in full, then any Shares in respect of which he has not accepted the offer shall be offered to those Members who have accepted the offer in full. Each such Member shall be required to state by notice in writing to the Company on or before the expiry of the period for acceptance specified in the offer notice whether he is willing to subscribe for any of the Shares offered and, if so, what maximum number of Shares (**Specified Maximum**) he is willing to subscribe for. Each allocation among the relevant Members shall in the case of over-subscription be made in proportion (as nearly as the directors of the Company determine is practicable) to the Shares of the relevant class held by them but individual allocations shall not exceed the Specified Maximum for that Member. If, owing to the inequality of the number of new Shares to be issued and the number of Shares held by holders entitled to receive the offer of new Shares, any difficulties shall arise in the apportionment of any such new Shares amongst the holders, such difficulties shall be determined by the directors of the Company in such manner, acting reasonably, as they deem equitable.

4.3 The provisions of article 4.2 shall not apply to an allotment and/or issue of Shares

4.3.1 with the prior consent of DR, MN and Forepower, or

4.3.2 is made in accordance with any other agreement between the Members that may be in force from time to time, or

4.3.3 in connection with a *bona fide* reorganisation of the capital of the Company which is necessary or required in order to effect a Listing, provided that the proportionate shareholdings of the Shareholders are unaffected as a result of the reorganisation, or

4.3.4 where Shares are directly or indirectly issued to a third party as consideration in respect of an acquisition of shares or business of another company or in connection with the funding of such an acquisition by a member of the Group from that third party

4 4 Subject to articles 4 2 and 4 3 and to section 551 of the Act, any equity securities shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of them to any persons at those times and generally on the terms and conditions they think proper

5 **Partly paid Shares**

Regulation 21 of the Model Articles shall not apply to the Company and Shares may be issued other than fully paid

6 **Payment of commissions on subscription for Shares**

No commission shall be paid by the Company to any person in consideration of his subscribing or agreeing to subscribe for any shares or procuring or agreeing to procure subscriptions for any Shares

7 **Purchase of own shares**

The Company may purchase its own Shares in any way provided for by the Act

8 **Calls on Shares and forfeiture**

Call notices

8 1 Subject to the Articles and the terms on which Shares are allotted, the Board may send a notice (a **Call Notice**) to a Member requiring the Member to pay the Company a specified sum of money (a **Call**) which is payable in respect of Shares which that Member holds at the date when the Board decides to send the call notice

8 2 A Call Notice.

8 2 1 may not require a Member to pay a Call which exceeds the total sum unpaid on that Member's Shares (whether as to the Share's nominal value or any amount payable to the Company by way of premium),

8 2 2 must state when and how any Call to which it relates is to be paid, and

8 2 3 may permit or require the Call to be made in instalments

8 3 A Member must comply with the requirements of a Call Notice, but no Member is obliged to pay any Call before ten clear Business Days have passed since the notice was sent.

8 4 Before the Company has received any Call due under a Call Notice the Board may

8 4 1 revoke it wholly or in part, or

8 4 2 specify a later time for payment than is specified in the notice,

by a further notice in writing to the Member in respect of whose Shares the Call is made

Liability to pay Calls

- 8 5 Liability to pay a Call is not extinguished or transferred by transferring the Shares in respect of which it is required to be paid
- 8 6 Joint holders of a Share are jointly and severally liable to pay all Calls in respect of that Share
- 8 7 Subject to the terms on which Shares are allotted, the Board may, when issuing Shares, provide that Call Notices sent to the holders of those Shares may require them
- 8 7 1 to pay Calls which are not the same, or
- 8 7 2 to pay Calls at different times
- When Call Notice need not be issued
- 8 8 A Call Notice need not be issued in respect of sums which are specified, in the terms on which a Share is issued, as being payable to the Company in respect of that Share (whether in respect of nominal value or premium)
- 8 8 1 on allotment, or
- 8 8 2 on the occurrence of a particular event, or
- 8 8 3 on a date fixed by or in accordance with the terms of issue
- 8 9 But if the due date for payment of such a sum has passed and it has not been paid, the holder of the Share concerned is treated in all respects as having failed to comply with a Call Notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture
- Failure to comply with Call Notice automatic consequences
- 8 10 If a person is liable to pay a Call and fails to do so by the Call payment date
- 8 10 1 the Board may issue a notice of intended forfeiture to that person, and
- 8 10 2 until the Call is paid, that person must pay the Company interest on the Call from the Call payment date at the relevant rate
- 8 11 For the purposes of this article
- 8 11 1 the Call payment date is the time when the Call Notice states that a call is payable, unless the Board gives a notice specifying a later date, in which case the Call payment date is that later date, and
- 8 11 2 the relevant rate is
- 8 11 2 1 the rate fixed by the terms on which the Share in respect of which the Call is due was allotted,

8 11 2 2 such other rate as was fixed in the Call Notice which required payment of the Call, or has otherwise been determined by the Board, or

8 11 2 3 if no rate is fixed in either of these ways, 5 per cent (5%) per annum

8 12 The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998

8 13 The Board may waive any obligation to pay interest on a Call wholly or in part

Notice of intended forfeiture

8 14 A notice of intended forfeiture

8 14 1 may be sent in respect of any Share in respect of which a Call has not been paid as required by a Call Notice,

8 14 2 must be sent to the holder of that Share (or all the joint holders of that Share) or to a transferee of that holder,

8 14 3 must require payment of the Call and any accrued interest and all expenses that may have been incurred by the Company by reason of such non-payment by a date which is not less than ten Business Days after the date of the notice (that is, excluding the date on which the notice is given and the date on which that ten Business Day period expires),

8 14 4 must state how the payment is to be made, and

8 14 5 must state that if the notice is not complied with, the Shares in respect of which the call is payable will be liable to be forfeited

Directors' power to forfeit Shares

If a notice of intended forfeiture is not complied with before the date by which payment of the Call is required in the notice of intended forfeiture, the Board may decide that any Share in respect of which it was given is forfeited, and the forfeiture is to include all dividends or other moneys payable in respect of the forfeited Shares and not paid before the forfeiture

Effect of forfeiture

8 15 Subject to the Articles, the forfeiture of a Share extinguishes

8 15 1 all interests in that Share, and all claims and demands against the Company in respect of it, and

- 8 15 2 all other rights and liabilities incidental to the Share as between the person whose Share it was prior to the forfeiture and the Company
- 8 16 Any Share which is forfeited in accordance with the Articles
- 8 16 1 is deemed to have been forfeited when the Board decides that it is forfeited,
- 8 16 2 is deemed to be the property of the Company, and
- 8 16 3 may be sold, re-allotted or otherwise disposed of as the Board thinks fit
- 8 17 If a person's Shares have been forfeited
- 8 17 1 the Company must send that person notice that forfeiture has occurred and record it in the register of Members,
- 8 17 2 that person ceases to be a Member in respect of those Shares,
- 8 17 3 that person must surrender the certificate for the Shares forfeited to the Company for cancellation,
- 8 17 4 that person remains liable to the Company for all sums payable by that person under the Articles at the date of forfeiture in respect of those Shares, including any interest (whether accrued before or after the date of forfeiture), and
- 8 17 5 the Board may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal
- 8 18 At any time before the Company disposes of a forfeited Share, the Board may decide to cancel the forfeiture on payment of all calls, interest and expenses due in respect of it and on such other terms as they think fit

General

- 8 19 Notwithstanding the provisions of this article 8, all Shares to be sold in the enforcement of the Company's Lien or rights of forfeiture shall be offered in accordance with article 13 (Compulsory Transfers) as if a Deemed Transfer Notice were deemed given in respect of such Shares
- 9 **Transfer of Shares - general**
- 9 1 The Board shall not register the transfer of any Share or any interest in any Share unless the transfer
- 9 1 1 is made in accordance with article 11 (Permitted Transfers),
- 9.1 2 is made in accordance with article 12 (Voluntary Transfers), article 13 (Compulsory Transfers) or article 14 (Drag Along Right),

- 9 1 3 is made with the prior consent of DR, MN and Forepower,
- 9 1 4 is made in accordance with any other agreement between the Members that may be in force from time to time, and
- 9 1 5 in any event, is not in favour of any infant, bankrupt, trustee in bankruptcy or person of unsound mind
- 9 2 The Company shall promptly register any duly executed and stamped transfer of Shares which is made in accordance with these Articles
- 9 3 For the purpose of ensuring that a transfer of Shares is in accordance with these Articles or that no circumstances have arisen whereby a Member may be bound to give or be deemed to have given a Transfer Notice (as defined in article 12 1) the Board may from time to time require any Member or any person named as transferee in any transfer lodged for registration to furnish to the Board such information and evidence as it or he requests for such purpose If such information or evidence is not furnished to his or their reasonable satisfaction within a reasonable time after that request the Board may in their absolute discretion either
- 9 3 1 refuse to register the transfer in question, or
- 9 3 2 where no transfer is in question, require by notice in writing to the Member(s) concerned that a Transfer Notice be given in respect of the Shares concerned within the period specified in that notice
- If such information or evidence discloses to the satisfaction of the Board in their absolute discretion that circumstances have arisen whereby a Member is bound to give or be deemed to have given a Transfer Notice the Board may in their absolute discretion by notice in writing to the Member concerned require that a Transfer Notice be given in respect of the Shares concerned within the period specified in that notice
- 9.4 An obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from any lien, charge or other encumbrance
- 9 5 No arrangement shall be entered into by any Member whereby the terms upon which that Member holds any Shares are to be varied if as a result any interest in those Shares is varied, disposed of or created or extinguished, except by a transfer made in accordance with these Articles or with the prior consent of the Board
- 9 6 Regulation 26(5) of the Model Articles shall not apply to the Company
- 9 7 Transmission of Shares
- Regulation 27(3) of the Model Articles shall be amended by the insertion of the words “, subject to article 23” after the word “But”
- 9 8 Transmittes bound by prior notices

Regulation 29 of the Model Articles shall be amended by the insertion of the words “, or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under regulation 28(2) of the Model Articles,” after the words “the transmittee’s name”

- 9 9 For the avoidance of doubt, any reference to the Board in articles 12 and 13 shall exclude any director being, or being connected with, the relevant Vendor

10 Share transfers to secured parties

- 10 1 Notwithstanding anything contained in these Articles (including, for the avoidance of doubt, article 9 above), the directors shall not decline to register any transfer of shares, nor may they suspend registration of such transfer where the transfer

10 1 1 is to any bank, institution or other financier to which such shares have been charged by way of security, or to any nominee of such a bank or institution (a **Secured Institution**), or such other person as such a Secured Institution shall select in accordance with the terms of the relevant security document over such shares, or

10 1 2 is delivered to the Company for registration by a Secured Institution in order to perfect its security over the shares, or

10 1 3 is executed by a Secured Institution pursuant to the power of sale or other power under such security

- 10 2 Furthermore, notwithstanding anything to the contrary contained in these Articles

10 2 1 no transferor or proposed transferor of any shares in the Company to a Secured Institution, or such other person as a Secured Institution shall select in accordance with the terms of the relevant security document over such shares, and no Secured Institution as transferor or proposed transferor, shall be required to offer to the shareholders for the time being of the Company any of the shares which are, or are to be, transferred pursuant to this article 10,

10 2 2 no shareholder for the time being of the Company shall have any right under the Articles or otherwise to require shares which are the subject of a transfer or proposed transfer pursuant to this article 10 to be transferred to such shareholder whether for consideration or not, and

10 2 3 the Company and the directors shall not be entitled to exercise any lien which the Company has in respect of shares charged in favour of, or held by, a Secured Institution or which are transferred pursuant to this article 10

11 Permitted transfers

- 11 1 For the purposes of this article 11

- 11 1 1 **family member** means, in relation to any person, any of his spouse (including a life partner as recognised by the directors) (or widow or widower), children and grandchildren (including step and adopted children and grandchildren) and the member's lineal descendants or antecedents and for the purposes aforesaid a stepchild or adopted child or illegitimate child of any person shall be deemed to be a lineal descendant of such person,
- 11 1 2 **family trust** means, in relation to a Member, a trust which does not permit any of the settled property or the income from it to be applied otherwise than for the benefit of that Member or any of his family members (and any charity or charities as default beneficiaries meaning that the charity or charities have no immediate beneficial interest in any of the settled property or the income from it when the trust is created but may become so interested if there are no other beneficiaries from time to time except other charities) and under which no power of control over the voting powers conferred by any Shares subject to the trust is capable of being exercised by, or being subject to the consent of, any person other than the trustees or such Member or any of his family members, and
- 11 1 3 **permitted transfer** means any transfer of Shares permitted under this article 11
- 11 2 The Forepower Shareholder may transfer any Share to any other member of its Permitted Transfer Group provided that
- 11 2 1 the transferee shall first have entered in a Deed of Adherence, and
- 11 2 2 there is a transfer back of the Shares to the relevant Member if the transferee ceases to be a member of that Member's Permitted Transfer Group
- 11 3 The transferor and transferee of any Share transferred under this article 11 and the Original Holder (if any) of the transferred Share shall each provide to the Board, at its own expense, any information and evidence reasonably requested in writing by the Board for the purpose of determining whether the transfer to the proposed transferee complies with the terms of this article 11
- 11 4 Where Shares have been transferred under article 11 1 (whether directly or by a series of such transfers) from a Member to a member of the same group as the transferor and subsequently the transferee ceases to be a member of the same group as the transferor, the transferee shall forthwith transfer all the Shares held by it to the transferor, for such consideration as they agree, within 15 Business Days of the cessation, or, failing such transfer within that period, shall during the remainder of the 20 Business Day period after the cessation, give a Transfer Notice (as defined in article 12.1) in respect of all of the Shares then held by the transferee

11 5 Subject to articles 11 6 to 11 8, any Member who is an individual may at any time transfer all or any of his Shares to a person (a **Permitted Transferee**) shown to the reasonable satisfaction of the Board to be

11 5 1 a family member of his; or

11 5 2 trustees to be held under a family trust for the benefit of that Member or his family member,

11 5 3 a company wholly owned or Controlled by either the relevant Member, a family member of his or the trustees of a family trust for that Member (a **Connected Company**)

PROVIDED that

(a) any Permitted Transferee shall enter into a Deed of Adherence in respect of the relevant Shares, and

(b) any Permitted Transferee complies with such conditions that the Board may reasonably stipulate

11 6 Where Shares are held by trustees under a family trust

11 6 1 those Shares may, on any change of trustees, be transferred by those trustees to any new trustee of that family trust,

11 6 2 those Shares may at any time be transferred by those trustees to the settlor of that trust or any other family member to whom that settlor could have transferred them under this article if he had remained the holder of them,

11 6 3 those Shares will be re-transferred to the Member as soon as practicable and no later than 15 Business Days following the termination or cessation of the family trust

11 7 If

11 7 1 any person has acquired Shares as a family member of a Member by way of one or more permitted transfers, and

11 7 2 that person ceases to be a family member of that Member,

that person shall forthwith transfer all the Shares then held by that person back to that Member, for such consideration as they agree, as soon as practicable and no later than 15 Business Days of the cessation

11 8 Where Shares are held by a Connected Company those Shares will be re-transferred to the Member as soon as practicable and no later than 15 Business Days following the liquidation, dissolution or winding up of the Connected Company or the date upon which the Connected Company is no longer wholly owned or Controlled either by the relevant

Member, a family member of his or the trustees of a family trust for the benefit of that Member or his family members

- 11 9 The transferor and the transferee of any Share transferred under article 11 5 shall at their own expense provide to the Company any information and evidence reasonably requested in writing for the purpose of determining whether the transfer to the proposed transferee complies with the terms of articles 11 6 to 11 8

12 Voluntary transfers

- 12 1 Any Member (a **Vendor**) shall, before transferring or agreeing to transfer any Share or any interest in any Share, serve notice in writing (a **Transfer Notice**) on the Company of its wish to make that transfer unless the transfer is

12 1 1 made pursuant to article 11 (Permitted Transfers) or article 13 (Compulsory Transfers), or

12 1 2 made pursuant to Forepower's enforcement of the DR Share Charge,

12 1 3 made pursuant to Forepower's enforcement of the MN Share Charge, or

12 1 4 made otherwise in accordance with the Joint Venture Agreement

- 12 2 In the Transfer Notice, the Vendor shall specify

12 2 1 the number of Shares (**Sale Shares**) which it wishes to transfer,

12 2 2 the identity of the person (if any) to whom the Vendor wishes to transfer the Sale Shares,

12 2 3 the price per share at which the Vendor wishes to transfer the Sale Shares (**Proposed Sale Price**),

12 2 4 any other terms relating to the transfer of the Sale Shares which are not prohibited by these Articles including the date from which dividends on the Sale Shares shall accrue to the purchaser, and

12 2 5 whether the Transfer Notice is conditional upon all (and not part only) of the Sale Shares being sold pursuant to the following provisions of this article 12 (a **Total Transfer Condition**)

- 12 3 Each Transfer Notice shall

12 3 1 relate to one class of Shares only,

12 3 2 constitute the Company as the agent of the Vendor for the sale of the Sale Shares on the terms of this article 12,

12 3 3 save as provided by article 12 5, be irrevocable, and

- 12 3 4 not be deemed to contain a Total Transfer Condition unless expressly stated otherwise
- 12 4 The Sale Shares shall be offered for purchase in accordance with this article 12 at a price per Sale Share (**Sale Price**) which either has been agreed between the Vendor and the Board or in default of agreement within 15 Business Days after the date of service of the Transfer Notice, the lower of
- 12 4 1 the Proposed Sale Price; and
- 12 4 2 if the Board elects within 20 Business Days after the date of service of the Transfer Notice to instruct Valuers for that purpose, the price per Share reported on by the Valuers as their written opinion of the open market value of each Sale Share in accordance with article 12 13 (**Fair Value**) as at the date of service of the Transfer Notice
- 12 5 If the Fair Value is reported on by the Valuers under article 12 4 2 to be less than the Proposed Sale Price specified in the Transfer Notice, the Vendor may revoke the Transfer Notice by written notice given to the Board within the period of 10 Business Days after the service on the Vendor of the Valuers' written opinion of the Fair Value.
- 12 6 The Board shall offer the Sale Shares for purchase at the Sale Price by a written offer notice (**Offer Notice**) served on all Members other than the Vendor (and any other Member who is then bound to give or deemed to have given a Transfer Notice in relation to which the procedures in these Articles have not been completed) within seven Business Days of the Sale Price having been agreed or determined under article 12.4 or, if the Transfer Notice is capable of being revoked under article 12 5, within five Business Days after the expiry of the period for revocation in article 12 5
- 12 7 An Offer Notice shall
- 12 7 1 specify the Sale Price;
- 12.7 2 expire 60 Business Days after its service,
- 12 7 3 contain the other details included in the Transfer Notice, and
- 12 7 4 invite the relevant Members to apply in writing, before expiry of the Offer Notice, to purchase Sale Shares
- 12 8 After the expiry date of the Offer Notice (or, if earlier, upon responses being received from all relevant Members in accordance with article 12 7), the Board shall allocate the Sale Shares in accordance with the applications received, subject to the other provisions of these Articles and the Model Articles, save that
- 12 8 1 if there are applications from Members for more than the total number of Sale Shares available, they shall be allocated to those applicants in proportion (as nearly as possible but without allocating to any Member more Sale Shares

than the maximum number applied for by him) to the number of Shares then held by them respectively,

- 12 8 2 if it is not possible to allocate Sale Shares without involving fractions, those fractions shall be aggregated and allocated amongst the applicants in such manner as the Board thinks fit, and
 - 12 8 3 if the Transfer Notice contained a Total Transfer Condition, no allocation of Sale Shares shall be made unless all the available Sale Shares are allocated
- 12 9 The Board shall, within seven Business Days after the expiry date of the Offer Notice or earlier allocation of all of the Sale Shares under article 12 8, give notice in writing (a **Sale Notice**) to the Vendor and to each person to whom Sale Shares have been allocated (each a **Purchaser**) specifying the name and address of each Purchaser, the number of Sale Shares allocated to him, the aggregate price payable for them, and the time for completion of each sale and purchase
- 12 10 Completion of a sale and purchase of Sale Shares pursuant to a Sale Notice shall take place at the registered office of the Company at the time specified in the Sale Notice (being not more than one week after the date of the Sale Notice, unless agreed otherwise in relation to any sale and purchase by both the Vendor and the Purchaser concerned) when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, transfer those Sale Shares and deliver the relative share certificates to that Purchaser
- 12 11 The Vendor may, during the period falling 65 Business Days after the expiry date of the Offer Notice, sell any Sale Shares for which a Sale Notice has not been given by way of a *bona fide* sale to the proposed transferee (if any) named in the Transfer Notice at any price per Sale Share which is not less than the Sale Price, without any deduction, rebate or allowance to the proposed transferee, provided that:
- 12 11 1 the Board shall be entitled to refuse registration of the proposed transferee if it is believed by the Board to be a competitor or connected with a competitor of the business of the Company or a nominee of such a person or if the Board reasonably believes that its ownership of Shares would materially prejudice the interests of the Company, and
 - 12 11 2 if the Transfer Notice contained a Total Transfer Condition, the Vendor shall not be entitled to sell only some of the Sale Shares under this article 12
- 12 12 If a Vendor fails to transfer any Sale Shares when required pursuant to this article 12 the Board may authorise any person (who shall be deemed to be the attorney of the Vendor for the purpose) to execute the necessary transfer of such Sale Shares (or deed or agreement) and deliver it on the Vendor's behalf The Company shall (at the direction of the Board) receive the purchase money for the Sale Shares from the relevant purchaser and shall, upon receipt of the duly stamped transfer, register the relevant purchaser as

the holder of those Sale Shares. The Company shall hold the purchase money on trust for the Vendor but shall not be bound to earn or pay interest on any money so held. The Company's receipt for the purchase money shall be a good discharge to the relevant purchaser (who shall not be concerned to see to the application of it). After the name of the relevant purchaser has been entered in the register of Members in purported exercise of the power conferred by this article 12, the validity of that exercise shall not be questioned by any person.

- 12.13 If instructed to report on their opinion of Fair Value under article 12.4.2, the Valuers shall
- 12.13.1 act as expert and not as arbitrator and their written determination shall be final and binding on the Members, save in the case of manifest error, and
 - 12.13.2 proceed on the basis that
 - 12.13.2.1 the open market value of each Sale Share shall be the sum which a willing purchaser would agree with a willing vendor to be the purchase price for all the Shares, divided by the number of Shares then in issue,
 - 12.13.2.2 there shall be no addition of any premium or subtraction of any discount by reference to the size of the holding the subject of the Transfer Notice or in relation to any restrictions on the transferability of the Sale Shares,
 - 12.13.2.3 if the Company is then carrying on a business as a going concern, that it will continue to do so,
 - 12.13.2.4 the Sale Shares are sold free of all encumbrances,
 - 12.13.2.5 the sale and purchase of the Sale Shares takes place on the date that the Valuer was requested to determine the Fair Value,
 - 12.13.2.6 the Valuer shall take account of any written submissions properly and promptly made by the Members; and
 - 12.13.2.7 any difficulty in applying either of the foregoing bases shall be resolved by the Valuers as they think fit in their absolute discretion.
- 12.14 The Company will use its best endeavours to procure that the Valuers deliver their written opinion of the Fair Value to the Board and the Vendor within 20 Business Days of the Board electing to instruct them under article 12.4.2.
- 12.15 The Valuers' fees for reporting on their opinion of the Fair Value shall be allocated, so far as is fair and reasonable, at the Valuer's sole discretion.
- 12.16 Each of DR, MN and Forepower and the Company agree that Forepower and Forepower Shares shall not be subject to the pre-emption provisions in this article 12 whilst any

indebtedness is outstanding from the Company to Forepower under the Senior Loan Facility Agreement

13 Compulsory transfers

13 1 In this article 13, a **Transfer Event** means, in relation to any Member

13 1 1 a Member who is an individual becoming bankrupt,

13 1 2 a Member making any arrangement or composition with its creditors generally and the Board notifying the Company within three months after becoming aware of it that such event is a Transfer Event in relation to that Member for the purposes of this article, and

13 1 3 a Member not giving a Transfer Notice in respect of any Shares or transfer any Shares (as the case may be) as required by article 9 3 and the Board notifying the Company within three months after becoming aware of it that such event is a Transfer Event in relation to that Member for the purposes of this article

13 2 Upon the happening of any Transfer Event, the Member in question and any other Member who has acquired Shares from it under a permitted transfer under article 11 (directly or by means of a series of two or more permitted transfers under article 11) shall be deemed to have immediately given a Transfer Notice in respect of all the Shares then held by them (a **Deemed Transfer Notice**) A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice.

13 3 Notwithstanding any other provision of these Articles, any Member holding Shares in respect of which a Deemed Transfer Notice is deemed given shall not be entitled to exercise any voting rights at general meetings of the Company in respect of those Shares (other than in respect of any resolution which relates directly or indirectly to a dilution of the Shares) between the date of the relevant Deemed Transfer Notice and the expiry of one month after the date of the Sale Notice given in respect of those Shares or, if earlier, the entry in the register of members of the Company of another person as the holder of those Shares or the cancellation of such Shares pursuant to article 13

13 4 Shares subject to any Deemed Transfer Notice shall be offered for sale in accordance with article 13 as if they were Sale Shares in respect of which a Transfer Notice had been given save that

13 4 1 a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, if later, the date of the first meeting of the Board at which details of the facts or circumstances giving rise to the Deemed Transfer Notice are tabled,

- 13 4 2 the Sale Price shall be a price per Sale Share agreed between the Vendor and the Board or, in default of agreement within 15 Business Days after the date of the Transfer Event, the Fair Value less in each case any dividends on the Sale Shares referred to in article 13 4 5 and retained by the Vendor,
- 13 4 3 a Deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition and shall be irrevocable, notwithstanding article 12 5,
- 13 4 4 the Vendor may retain any Sale Shares for which Purchasers are not found or, during the period between one and two months after the expiry of the relevant Offer Notice, and with the prior written approval of the Board, the Vendor may sell all or any of those Sale Shares to any person (including any Member) at any price per Sale Share which is not less than the Sale Price, and
- 13 4 5 the Sale Shares shall be sold together with all rights, attaching thereto as at the date of the Transfer Event, including the right to any dividend declared or payable on those Shares after that date but not the rights to any unpaid dividends which have accrued prior to that date

14 **Drag along right**

- 14 1 Subject to article 12, if Forepower has obtained a *bona fide* third party offer for all of its Shares and it is prepared to accept the offer, Forepower shall be entitled to transfer its Shares to such third party and to require the other Shareholders to sell all of their Shares to such third party on the terms and conditions (to the extent relevant)
- 14 2 The drag along right is exercised by Forepower providing to the other Shareholders a written notice as soon as practicable setting out the relevant terms of the *bona fide* offer, including the number of Shares for sale and the consideration (the **Drag Along Notice**)
- 14 3 The completion of the sale of the other Shareholders' Shares pursuant to clause 16 2 shall take place on the terms and conditions (to the extent relevant) and at the same time as the sale of Forepower's Shares to the relevant third party

15 **Obligations on completion of share transfers**

- 15 1 Where this article 15 applies to the transfer of any Share, the Share shall be transferred free of any encumbrances and with all rights attaching thereto
- 15 2 Upon completion of any transfer of shares to which this article 15 applies
- 15 2 1 the seller shall deliver to the purchaser a duly executed transfer in favour of the purchaser, together with the certificate representing the relevant Shares and a power of attorney in a form and in favour of a person nominated by the purchaser, so as to enable the purchaser, pending registration, to exercise all rights of ownership in relation to the Shares transferred to it, including the voting rights,

15 2 2 the purchaser shall pay the aggregate transfer price in respect of the relevant Shares to the seller by electronic transfer for value on the date of completion or in such other manner as may be agreed by the seller and the purchaser before completion, and

15 2 3 the seller shall do all such other acts and/or execute all such other documents as the purchaser may reasonably require (and in a form satisfactory to the purchaser) to give effect to the transfer of Shares to it

Directors: decision-making by directors

16 Members' power to require directors to take action

16 1 The Members may, by special resolution, direct the directors to take, or refrain from taking, specified action

16 1 1 No such special resolution invalidates anything which the directors have done before the passing of the resolution

16 1 2 No alteration of the Articles invalidates anything which the directors have done before the alteration was made

17 Directors to take decisions collectively

17 1 Regulation 7 of the Model Articles shall be amended by

17 1 1 the insertion of the words "for the time being" at the end of regulation 7(2)(a), and

17 1 2 the insertion in regulation 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may"

18 Unanimous decisions

18.1 A decision of the Board is taken in accordance with this article 18 when all eligible directors indicate to each other that they share a common view on a matter. Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or to which each eligible director has otherwise indicated agreement in writing

18 2 A decision may not be taken in accordance with article 18 1 if the eligible directors would not have formed a quorum at a meeting of the Board

19 Committees

19 1 Committees to which the directors delegate any of their powers and the boards of directors of any subsidiaries of the Company must follow procedures which accord with those provisions of the Articles which govern the taking of decisions by directors (including quorum requirements), such that the representation and voting rights of DR, MN and Forepower on each such committee shall, so far as possible, reflect their

representation and voting rights on the Board and act in accordance with such provisions as are agreed in writing by all the Members

- 19 2 The directors may make rules of procedure for all or any committees, which, subject to article 19 1, prevail over rules derived from the Articles if they are not consistent with them

20 Calling a directors' meeting

- 20 1 Any director may call a meeting of the Board by giving not less than five Business Days' notice of the meeting (or such lesser notice as all the directors may agree) to the directors or by authorising the company secretary (if any) to give such notice Breach of this article 21 shall not effect the validity of any meeting of the Directors which has otherwise been approved as a duly convened and quorate Board Meeting

- 20 2 Meetings of the Directors shall be convened at least four times per year

21 Number of directors

- 21 1 DR shall be entitled to be appointed as a Director of the Company for so long as he is the holder of Shares

- 21 2 MN shall be entitled to be appointed as a Director of the Company for so long as he is the holder of Shares

- 21 3 Forepower shall be entitled to appoint up to three natural persons as Directors

- 21 4 If Forepower appoints less than three Directors pursuant to article 21 3 above then any Directors appointed by Forepower, shall be deemed to have three votes in aggregate

- 21 5 Each Shareholder shall be consulted, in advance, about the appointment of Directors nominated by the other Shareholder but shall have no right to veto an appointment

- 21 6 Each Director shall have one vote, with decisions being made (except for those relating to Reserved Matters) on a majority basis Provided that if any one of the Directors appointed by Forepower is not in attendance at any meeting of the Directors, the votes of the Directors appointed by Forepower shall be enhanced by the additional votes as provided in article 21 4 above

22 Appointment of a Chairperson

The directors shall, from time to time, appoint a chairperson of the Board (the **Chairperson**) in accordance with the applicable procedure set out in the Joint Venture Agreement

23 Quorum for Board meetings

- 23 1 At a Board meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting

- 23 2 A quorum shall exist at any Board meeting if at least one director appointed by Forepower is present or represented by an alternate and at least one other director (not being a director appointed by Forepower) is present or represented by an alternate
- 23 3 If a quorum is not present at a meeting of the Directors at the time when any business is considered, any Director may require that the meeting be reconvened. At least five Business Days' notice of the reconvened meeting will be given unless all of the Directors agree otherwise. At the reconvened meeting, a quorum shall exist with respect to those matters on the agenda which were not disposed of at the original meeting only if any two or more Directors (of which at least one of whom shall be a Director appointed by Forepower) are present or represented by an alternate. For the avoidance of doubt, clause 4 (Reserved Matters) shall continue to apply at any Board meeting(s)
- 23 4 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision, subject always to the limits on the number of directors at article 22 above, other than a decision
- 23 4 1 to appoint further directors, or
- 23 4 2 to call a general meeting so as to enable the Members to appoint further directors
- 24 **Casting vote**
- 24 1 Subject to the Joint Venture Agreement, if the numbers of votes for and against a proposal at a meeting of Board are equal, the Chairperson or other director chairing the meeting does not have a casting vote
- 25 **Transactions or other arrangements with the company**
- 25 1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a director who is in any way, whether director or indirectly, interested in an existing or proposed transaction or arrangement with the Company.
- 25 1 1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested,
- 25 1 2 shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested,
- 25 1 3 shall be entitled to vote at a Board meeting of (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested,

- 25 1 4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director,
- 25 1 5 may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, anybody corporate in which the Company is otherwise (directly or indirectly) interested, and
- 25 1 6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act

26 **Conflicts of interest requiring Board authorisation**

- 26 1 Subject always to article 27 8 below, the Board may, subject to the quorum and voting requirements set out in the Articles, authorise any matter which would otherwise involve a director breaching his duty (the **Relevant Director**) under section 175 of the Act to avoid conflicts of interest (a **Conflict**)
- 26 2 Any director (including the Relevant Director) may propose that the Relevant Director be authorised in relation to any matter the subject of a Conflict. Such proposal and any authority given by the Board shall be effected in the same way that any other matter may be proposed to and decided upon by the Board under the provisions of the Articles save that the Relevant Director shall not count towards the quorum nor vote on any resolution giving such authority and save further that if there are insufficient directors eligible to vote and therefore to form a quorum, article 24 1 will apply
- 26 3 Where the Board authorises any matter in relation to a Conflict:
 - 26 3 1 the terms of the authority shall be recorded in writing (but the authority shall be effective whether or not the terms are so recorded), and
 - 26 3 2 the directors may revoke or vary such authority at any time but this will not affect anything done by the Relevant Director prior to such revocation or variation in accordance with the terms of such authority
- 26 4 Where the Board authorises any matter in relation to a Conflict or where any of the situations referred to in article 25 1 (**Permitted Situation**) applies
 - 26 4 1 the Board may (whether at the relevant time or subsequently) (i) require that the Relevant Director is excluded from the receipt of information, the participation in discussion and/or the making of decisions (whether at

meetings of the directors or otherwise) related to the Conflict or Permitted Situation, and (ii) impose upon the Relevant Director such other terms for the purpose of dealing with the Conflict as it may determine,

- 26 4 2 the Relevant Director will be obliged to conduct himself in accordance with any terms imposed by the Board in relation to the Conflict or Permitted Situation, and
- 26 4 3 the Board may provide that where the Relevant Director obtains (otherwise than through his position as a director of the Company) information that is confidential to a third party, the director will not be obliged to disclose that information to the Company, or to use or apply the information in relation to the Company's affairs, where to do so would amount to a breach of that confidence
- 26 5 A director shall not, by reason of his office or of the fiduciary relationship thereby established, be liable to account to the Company or the Members for any remuneration, profit or other benefit realised by reason of his having any type of interest in a Conflict authorised under this article 26 or in any Permitted Situation and no contract shall be liable to be avoided on the grounds of a director having any such interest
- 26 6 Any director appointed by DR shall, without requiring authorisation under this article 26 be entitled to act on behalf of the Company or a Company Group Member in order to enforce against MN and/or Forepower or any Affiliate of MN or Forepower any rights of the Company or that Company Group Member that Forepower, DR and MN have agreed in writing that the Company or that Company Group Member may enforce
- 26 7 Any director appointed by MN shall, without requiring authorisation under this article 26, be entitled to act on behalf of the Company or a Company Group Member in order to enforce against DR and/or Forepower or any Affiliate of DR and/or Forepower, any rights of the Company or that Company Group Member that MN, DR and Forepower have agreed in writing that the Company or that Company Group Member may enforce
- 26 8 Any director appointed by Forepower shall, without requiring authorisation under this article 26, be entitled to act on behalf of the Company or a Company Group Member in order to enforce any rights of the Company or that Company Group Member against DR and/or MN or any Affiliate of DR and/or MN that Forepower, DR and MN have agreed in writing that the Company or that Company Group Member may enforce
- 26 9 Notwithstanding any other provision of these Articles, a director (other than the Chairperson) shall not be entitled to attend or be counted in the quorum of (nor shall their presence be required to constitute a quorum if it would otherwise be required under these Articles), or be entitled to vote at, any part of a Board meeting that is to consider any claim against the Member that appointed such director, provided that the relevant claim is a claim to which DR, MN and Forepower have agreed in writing that these provisions shall apply and any such director shall not be entitled to receive any documents or information in respect of any such claim

27 Directors may vote when interested

- 27 1 Subject to article 27 4 and where applicable to disclosure in accordance with the Act or the Articles and subject to any terms imposed by the Board in relation to any Conflict or Permitted Situation, a director shall be entitled to vote in respect of any matter in which he is interested directly or indirectly and, if he shall do so, his vote shall be counted and, whether or not he does, his presence at the meeting shall be taken into account in ascertaining whether a quorum is present
- 27 2 Subject to article 27 3, if a question arises at a Board meeting or at a meeting of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chairperson whose ruling in relation to any director other than the Chairperson is to be final and conclusive
- 27 3 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chairperson, the question is to be decided by a decision of the directors at that meeting, for which purpose the Chairperson is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes
- 27 4 Notwithstanding any other provision of these Articles, a director shall not be counted in the quorum (nor shall his presence be required in order to constitute a quorum if it would otherwise be required under these Articles) not be entitled to vote at any part of a Board meeting that is to consider a claim by the Company or a Company Group Member against the Member that appointed that director, or any action by a Member that appointed that director against the Company or Company Group Member, provided that the relevant claim is a claim to which DR, MN and Forepower have agreed in writing that these provisions shall apply

28 Records of decisions to be kept

Where decisions of the Board are taken by electronic means, such decisions shall be recorded by the Board in permanent form, so that they may be read with the naked eye

29 Appointment of directors

In any case where, as a result of death or bankruptcy, the Company has no Members and no directors, the transmittee(s) of the last Member to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person (including a transmittee who is a natural person), who is willing to act and is permitted to do so, to be a director

30 Termination of director's appointment

A person shall cease to be a director if a majority of the Board (excluding that director in calculating such majority) so requires Regulation 18 of the Model Articles shall be extended accordingly

31 Appointment and removal of alternate directors

31 1 Any director (**Appointor**) may appoint as an alternate any other director, or any other person approved by resolution of the Board, to

31 1 1 exercise that director's powers, and

31 1 2 carry out that director's responsibilities,

in relation to the taking of decisions by the Board, in the absence of the alternate's Appointor

31 2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the Board

31 3 The notice must

31 3 1 identify the proposed alternate director, and

31 3 2 in the case of a notice of appointment, contain a statement signed by the proposed alternate director that the proposed alternate director is willing to act as the alternate of the director giving the notice

32 Rights and responsibilities of alternate directors

32 1 An alternate director may act as alternate director to more than one director and has the same rights in relation to any decision of the Board as the alternate's Appointor.

32 2 Except as the Articles specify otherwise, alternate directors

32 2 1 are deemed for all purposes to be directors,

32 2 2 are liable for their own acts and omissions,

32 2 3 are subject to the same restrictions as their Appointors, and

32 2 4 are not deemed to be agents of or for their Appointors,

and, in particular (without limitation), each alternate director shall be entitled to receive notice of all Board meetings and of all meetings of committees of directors of which his Appointor is a member

32 3 A person who is an alternate director but not a director

32 3 1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's Appointor is not participating),

32 3 2 may participate in a unanimous decision of the directors (but only if his Appointor is an eligible director in relation to that decision, but does not participate); and

- 32 3 3 shall not be counted as more than one director for the purposes of articles 32 3 1 and 32 3.2
- 32 4 A director who is also an alternate director is entitled, in the absence of his Appointor, to a separate vote on behalf of his Appointor, in addition to his own vote on any decision of the Board (provided that his Appointor is an eligible director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present
- 32 5 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as his Appointor but shall not be entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's Appointor's remuneration as the Appointor may direct by notice in writing made to the Company
- 33 **Termination of alternate directorship**
- An alternate director's appointment as an alternate terminates
- 33 1 1 when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate, or
- 33 1 2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a director, or
- 33 1 3 on the death of the alternate's Appointor, or
- 33 1 4 when the alternate's Appointor's appointment as a director terminates
- 34 **Secretary**
- The Board may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they think fit and from time to time remove such person and, if the Board so decides, appoint a replacement, in each case by a decision of the Board
- 35 **Directors' expenses**
- Regulation 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors) and the secretary" before the words "properly incur"
- Members: decision making by members**
- 36 **Quorum at general meetings**
- The quorum at any general meeting or adjourned general meeting of the Company shall be three qualifying persons present at the general meeting (one of whom shall be the DR Shareholder, one of whom shall be the MN Shareholder and the other the Forepower

Shareholder), except if the Company has only one Member, in which case the quorum shall be one such qualifying person

37 Poll votes

37 1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting

37 2 Regulation 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that regulation

38 Proxies

38 1 Regulation 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate"

38 2 Regulation 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the Board, in its discretion, accepts the notice at any time before the meeting" as a new paragraph at the end of that regulation

39 Means of communication to be used

39.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient

39 1 1 if properly addressed and sent by prepaid first class post 24 hours after it was posted,

39 1 2 if properly addressed and delivered by hand, when it was given or left at the appropriate address,

39 1 3 if properly addressed and sent or supplied by electronic means, six hours after the document or information was sent or supplied, and

39 1 4 if sent or supplied by means of a website, when the recipient receives notice of the fact that the material is available on the website

For the purposes of this article 39, no account shall be taken of any part of a day that is not a Business Day, save for the purposes of determining whether sufficient notice of a general meeting has been given

39 2 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act

40 Indemnity

40 1 Subject to article 40 2, but without prejudice to any indemnity to which a Relevant Officer is otherwise entitled

40 1 1 each Relevant Officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a Relevant Officer

40 1 1 1 in the actual or purported execution and/or discharge of his duties, or in relation to them, and

40 1 1 2 in relation to the Company's (or any Associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a Relevant Officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any Associated company's) affairs, and

40 1 2 the Company may provide any Relevant Officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 40 1 1 1 and otherwise may take any action to enable any such Relevant Officer to avoid incurring such expenditure

40 2 This article 40 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law

41 Insurance

41 1 The Board may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any Relevant Officer in respect of any Relevant Loss

42 Members' collective action

42 1 Unless otherwise stated in these Articles, the Forepower Shareholder shall act collectively by Forepower acting for and on behalf of, and binding, the Forepower Shareholder in respect of any actions, appointments, notices or decisions required under these Articles and the Forepower Shareholder shall cast their votes in general meetings unanimously Any notice to be provided to the Forepower Shareholder in accordance

with these Articles shall be deemed to be served on the Forepower Shareholder upon its delivery to Forepower

42.2 Unless otherwise stated in these Articles, the DR Shareholder shall act collectively by DR acting for and on behalf of, and binding, the DR Shareholder in respect of any actions, appointments, notices or decisions required under these Articles and the DR Shareholder shall cast their votes in general meetings unanimously. Any notice to be provided to the DR Shareholder in accordance with these Articles shall be deemed to be served on the DR Shareholder upon its delivery to DR.

42.3 Unless otherwise stated in these Articles, the MN Shareholder shall act collectively by MN acting for and on behalf of, and binding, the MN Shareholder in respect of any actions, appointments, notices or decisions required under these Articles and the MN Shareholder shall cast their votes in general meetings unanimously. Any notice to be provided to the MN Shareholder in accordance with these Articles shall be deemed to be served on the MN Shareholder upon its delivery to MN.